

The fact that a claimed species or subgenus is encompassed by a prior art genus is not sufficient by itself to establish a prima facie case of obviousness. *In re Baird*, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994) ("The fact that a claimed compound may be encompassed by a disclosed generic formula does not by itself render that compound obvious.") *In re Jones*, 958 F.2d 347, 350, 21 USPQ2d 1941, 1943 (Fed. Cir. 1992) (Federal Circuit has "decline[d] to extract from *Merck & Co. v. Biocraft Laboratories Inc.*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir. 1989)] the rule that...regardless of how broad, a disclosure of a chemical genus renders obvious any species that happens to fall within it."). MPEP 2144.08 (p. 2100-137); emphasis added.

Accordingly, Applicants respectfully submit that Lickfield et al. did not recognize LLDPE as an advantageous or even suitable component for use in the polyethylene component of the spunbond filaments by mere recitation of the term "polyethylene".

Further, beginning at page 3, line 36, bridging to page 4 of the present specification, Applicants disclose the particular advantages of using the blended polyethylenes claimed herein, to wit: reducing the level of volatiles and deposits that would be encountered in spinning of LLDPE alone and increasing the 'bonding window' relative to HDPE alone, while maintaining the softness of a 100% LLDPE-sheathed spunbond fabric. Likewise, the fabrics made according to the present invention have higher grab tensile strengths and abrasion resistance than those made with 100% HDPE-sheathed spunbond fabrics.

Accordingly, it can be seen that the blended sheath polyethylenes of the present invention provide several distinct advantages over non-blended sheath polyethylenes disclosed by Lickfield et al., which advantages are neither disclosed nor suggested by Lickfield et al. In such case, it cannot be said that the genus ("polyethylenes") would have made obvious the species (polyethylene blends of greater than 50% HDPE and LLDPE). As such, the skilled artisan would not have looked to Tabor et al. for motivation to modify Lickfield et al.

Tabor et al. disclose a method for making bicomponent fibers which are readily colorable by dying, by grafting an olefinic polymer with pendant succinic acid or succinic anhydride groups and using that grafted olefin as a component of the bicomponent fibers (abstract). Tabor et al. fail to disclose or suggest that the grafted olefin polymers useful therein are gamma radiation stable.

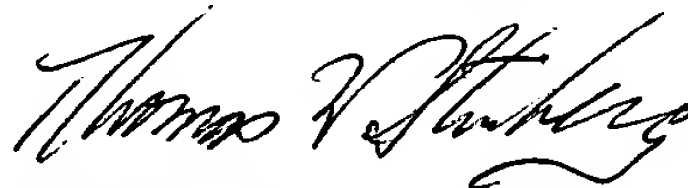
Accordingly, Applicants respectfully submit that the skilled artisan would not have been motivated to utilize the polyolefin mixtures of Tabor et al., which invariably include polyolefins grafted with reactive succinic acid or anhydride groups, in place of the gamma radiation stable polyolefin components of Lickfield et al., because the skilled artisan could have no reasonable expectation of success that such a substitution would result in gamma radiation stable spunbond webs, as required by Lickfield et al.

Where claimed subject matter has been rejected as obvious in view of a combination of prior art references, a proper analysis under §103 requires, *inter alia*, consideration of two factors: (1) whether the prior art would have suggested to those of ordinary skill in the art that they should make the claimed composition or device, or carry out the claimed process; and (2) whether the prior art would also have revealed that in so making or carrying out, those of ordinary skill would have a reasonable expectation of success. (Citation omitted). Both the suggestion and the reasonable expectation of success must be founded in the prior art, not in the applicant's disclosure. *In re Vaeck*, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991); emphasis added.

Further, since the grafted linear polyethylenes of Tabor et al. would not have been expected to have the radiation stability required by Lickfield et al., substitution of the Tabor et al. blended polyethylenes for the Lickfield et al. polyethylene would destroy the function of the Lickfield et al. fabrics, i.e. radiation stability. Those of skill in the art would not have been motivated to make a substitution that would destroy the functioning of the reference.

Accordingly, the proposed combination of reference teachings cannot establish a *prima facie* case of obviousness as to the present claims. Withdrawal of the rejection and allowance of the claims is requested on this basis.

Respectfully submitted,



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